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ABSTRACT

Discussed in the 1971 annual report of the Register of Copyrights to the Librarian of Congress are the following topics: (1) General revision of the copyright law, (2) The year's copyright business, (3) Official publications, (4) Copyright contributions to the library collections, (5) Administrative developments, (6) Legislative developments, (7) Judicial developments, and (8) International copyright developments. Extensive historical and current data are presented in tabular form. In addition, a list of publications available from the Library of Congress Copyright Office is provided. See LI 003 711 for the 1970 Annual Report of the Register of Copyrights. (SJ)

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ANNUAL REPORT OF THE REGISTER OF COPYRIGHTS

For the fiscal year ending June 30

1971

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"To promote the Progress of Science and useful Arts . . . ."

Report to the Librarian of Congress

by the Register of Copyrights

THE COPYRIGHT OFFICE

The centennial year of the Copyright Office in the Library of Congress provided the occasion for a retrospective review of the Federal copyright system since its inception in 1790, but at the same time the proliferation of printed matter and other media demanded that primary attention be directed toward the future. In a society tending to become more oriented toward the production and use of intellectual materials, copyright and bibliographic control are of the utmost importance. As in 81 of the past 100 years, the number of works registered in the Copyright Office again increased during fiscal 1971, and more deposits were contributed to the collections of the Library than ever before.

The sense of nostalgia associated with centennial retrospections was, indeed, intensified by a growing uneasiness within the copyright community. Rapid changes in modes of reproduction and communication harbinger the reshaping of whole industries and the emergence of new and as yet unclear problems. Various techniques are now readily available for the simple, inexpensive reproduction of copyrighted material, and related systems for packaging, delivery, and transmission of information are being improved. The increasing availability of technical means for obtaining quick access to such material presents the prospect of basic realignment of established patterns of information supply and distribution. Such changes will necessitate new mechanisms for providing the economic support required to ensure the creation and dissemination of works of authorship.

Proposals for revision of the copyright law had given rise to the hope that a proper legislative foundation could be laid for resolving the problems generated by the technological innovations of our time. Progress toward the enactment of a revised law was slow during the past year. The need for change is widely felt, however, and the Copyright Office is optimistic in anticipating new legislation that will meet the demands of the last quarter of the 20th century.

GENERAL REVISION OF THE COPYRIGHT LAW

At the beginning of the new fiscal year, S. 543, 91st Congress, as approved by the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee on December 10, 1969, was pending before the full committee. As mentioned in last year's report, Senator John L. McClellan, chairman of the subcommittee, announced on August 17, 1970, that no further action on the bill would be taken in the Senate during the remainder of that session, chiefly because of unresolved problems relating to the carriage of broadcast signals by cable systems.

On February 8, 1971, Senator McClellan reintroduced the revision bill in the 92nd Congress as S. 644, which is substantially identical to S. 543 as approved by the subcommittee in the preceding Congress. In introducing the new bill, Senator McClellan indicated that he expected the Federal Communications Commission to reach a conclusion before long on the rules it proposed to issue concerning cable system carriage of

broadcast signals, after which the Senate committee could proceed with its consideration of the revision bill.

The Federal Communications Commission conducted a thorough set of hearings on various problems associated with cable television during the month of April 1971 and later indicated that it expected to decide on its rules for cable system carriage of broadcast signals by the first week in August.

A tentative agreement in principle between representatives of the cable television industry and the major producers of copyrighted motion picture television programs was announced on June 14, 1971, after a long period of negotiations. Shortly thereafter, the television broadcasters declared their strong opposition to the terms of this agreement.

On July 15, 1971, as another new fiscal year began, Senator McClellan introduced S.J. Res. 132 to extend until December 31, 1972, the duration of subsisting copyrights that had been renewed but would otherwise expire before that date. In introducing this bill, Senator McClellan summarized the situation regarding the revision bill as follows:

> It is apparent that the Congress cannot complete action during this session on the legislation for general revision of the copyright law. The copyright revision bill has been delayed for several years principally because of the cable television controversy. More recently the Congress has been awaiting action by the Federal Communications Commission on the necessarily related communications aspects of CATV. The Congress has now been advised by the Chairman of the Federal Communications Commission that the Commission anticipates completing its current CATV rule-making proceedings before the start of the summer recess of the Congress. Clearly, however, adequate time will not remain for action on the revision bill and, therefore, it is necessary to consider another temporary extension of copyrights.

THE YEAR'S COPYRIGHT BUSINESS

Gross receipts of the Copyright Office for fiscal 1971 amounted to $2,089,620. The number of registrations reached 329,696, almost 4.2 percent above the previous year's alltime high of 316,466. Increases were noted in nine of the 14 classes of registrations. Over 96,000 books (including "book materials") and 95,000 musical compositions were registered during the year, representing increases of 8.7 percent and 7 percent, respectively, in these classes. Foreign and ad interim registrations showed an increase of nearly 7 percent, most of which was attributable to the registration of musical compositions of foreign origin. Renewals declined considerably during the year, reflecting the decrease in original registrations during World War II, as did registrations of maps and commercial prints and labels. The Examining Division rejected 8,236 applications, 2.3 percent of the total number received, and 44,543, or 12.4 percent, were entered on the record after correspondence. Almost 531,000 articles were deposited for registration, a substantial increase over fiscal 1970. The volume of recorded assignments and related documents, on the other hand, declined by 8.3 percent.

A total of 2,224,615 cards were prepared by the Copyright Office during the fiscal year. The Cataloging Division transferred 832,185 cards to the Service Division for inclusion in the copyright card catalog, 67,791 cards were supplied to other departments of the Library, and 251,001 cards were sold to subscribers.

Written requests to the Copyright Office for general information increased by 17 percent over the previous fiscal year, reaching 26,321, and long distance telephone requests for general information rose 21 percent to 7,943. Some 4,000 persons visited the Public Information Office, an increase of 5 percent over fiscal 1970. A slight decrease was noted in the number of hours of reference search work for which a fee is charged. There was a noticeable leveling off in the number of search requests from publishers of microreproductions and reprint editions.

Additional statistical details may be found in the comparative tables appearing at the end of this chapter.

OFFICIAL PUBLICATIONS

Nineteen regular issues of the *Catalog of Copyright Entries* were published during fiscal 1971 and eight others were compiled for publication in fiscal 1972. The Cataloging Division also com-

piled and published the fifth cumulative volume in a series on motion pictures, a descriptive list of more than 35,000 motion picture films accepted for registration from 1960 to 1969, inclusive. Entitled *Catalog of Copyright Entries, Cumulative Series; Motion Pictures, 1960-1969*, this publication is for sale by the Superintendent of Documents, Government Printing Office, for $8. The set of five catalogs covering the period 1894-1969 is available at $48.

A looseleaf indexed edition of the *Compendium of Copyright Office Practices* was placed on sale by the Superintendent of Documents in the spring of 1971. Originally made available to the general public on July 4, 1967, under the terms of the Administrative Procedure Act, as amended (Title 5, U.S.C. §552), the manual had previously been available only on microfilm or as an expensive photoreproduction. By the close of the fiscal year, over 1,000 copies of the *Compendium* had been sold.

CONTRIBUTIONS TO THE COLLECTIONS

During fiscal 1971 the Copyright Office transferred a record number of deposits–316,972 items in all–to the Exchange and Gift Division. These materials were either added to the collections of the Library or held for other purposes, including exchanges with other libraries and governmental agencies.

Registrations resulting from action taken by the Compliance Section of the Reference Division numbered 16,099. The value of the deposit material thus made available for the collections of the Library was estimated to be more than $610,000. Of these registrations, 80 percent resulted from searches initiated by the Compliance Section, 19 percent from requests made by other departments of the Library, and 1 percent from cases referred by either the Examining or Service Divisions.

ADMINISTRATIVE DEVELOPMENTS

The steadily increasing size and complexity of work connected with the registration process posed a growing challenge to the orderly administration of the statute. Fortunately, with assistance from the Information Systems Office of the Administrative Department, it was possible to begin testing the feasibility of automation in a functional context. Operation of the experimental deposit account machine posting (DAMP) project began in the latter part of the fiscal year. Designed to demonstrate the applicability of automated processes to the deposit account recordkeeping system in the Copyright Office, the project is operating in parallel with the present manual system used in the Accounting Unit of the Service Division's Fiscal Control Section.

Excellent progress was made in the microfilming of primary copyright records for security purposes. Almost 1.8 million copyright applications were prepared for filming, 1¼ million from bound volumes from 1946 through 1967 and the remainder from cards for the years 1898-1937. Of the estimated 14¼ million frames to be filmed in this five-year program, over 6 million have now been completed.

The Regulations of the Copyright Office were amended at the close of the fiscal year through the addition of a new subsection, 202.15(c), which redefines the deposit requirement for motion picture films. The new amendment provides a more flexible definition of "best edition" and permits the deposit of copies actually desired for the collections of the Library rather than those conforming to unvarying specifications for gauge and the like. The amendment makes mandatory the deposit of photographic reproductions of certain portions of videotaped works, in addition to copies of the videotapes themselves in cases where first publication occurred exclusively in videotape form. To replace the motion picture agreement scheduled to expire on August 15, 1971, a new agreement was drafted which, in addition to permitting the return of deposited motion picture films subject to the right of the Librarian to recall copies within a specified time limit, requires that copies of good quality be supplied on recall and that a performance bond of no more than $200 be posted in certain cases.

At the conclusion of calendar 1970, the sixth general segment of the copyright card catalog and related card indexes was inaugurated. The five previous segments cover the periods

1870-97, 1898-1937, 1938-45, 1946-54, and 1955-70. Although integration of the last two completed segments into a single index covering the period 1946-70 is contemplated, further integration of the older indexes is impossible because of their incompatible nature and the dimensions of the cards used.

LEGISLATIVE DEVELOPMENTS

In addition to enactment of the sixth interim copyright extension bill (P.L. 91-555) and the reintroduction of a bill for general revision of the Copyright Law (S. 644), fiscal 1971 saw several interesting developments in copyright and related areas.

Protection against unauthorized duplication or piracy of sound recordings was the purpose of S. 646, a bill introduced early in the session of the new Congress by Senators John McClellan and Hugh Scott. On March 30, 1971, a companion bill, H.R. 6927, was introduced by Representative Richard Fulton. The bill was passed by the Senate and, on July 1, 1971, was approved by the Subcommittee on Patents, Trademarks, and Copyrights of the House Committee on the Judiciary with an amendment providing for the expiration on December 31, 1973, of the copyright protection granted for sound recordings.

Provision for taxation of sums received from the transfer of rights in literary, musical, and artistic property at the capital gain rate was included in H.R. 843, introduced by Representative Edward Koch in January 1971. Similar legislation had been introduced in earlier Congresses.

Representative Ogden Reid introduced H.R. 8812 (June 1, 1971), which amends title II of the Social Security Act to exclude from the category of excess earnings income derived from the sale of certain copyrights, literary, musical, and artistic compositions, and the like prepared by or for the taxpayer before his 65th birthday. On June 24, 1971, an identical bill, H.R. 9424, was introduced by Representative John Monagan.

Authorization for the establishment and maintenance by the Librarian of Congress of a library of television and radio news programs was provided by H.R. 35, a bill introduced on January 22, 1971, by Representative Spark Matsunaga. Similar to legislation presented during the previous Congress by Senator Howard Baker, Jr., and Representative Richard Fulton, the bill carried a proviso that "the Librarian shall first promulgate such regulations pertaining to the procedure for obtaining said copies as will secure from infringement any copyright or other restrictions which may exist, and, in so doing, the Library shall not be subject to suit for infringement."

A bill to require that recordings of songs or other verbal material set to music be accompanied by a printed copy of the words, H.R. 666, was introduced by Representative John Dingell on January 22, 1971. Establishment of a uniform Federal law of unfair competition was the subject of S. 647, a bill introduced by Senators McClellan and Scott on February 8, 1971. Similar measures had been introduced in the preceding Congress.

On May 14, 1971, Senator Quentin Burdick, for himself and 11 other Senators, introduced S. S. 1866, a private bill granting special 75-year copyright protection for Mary Baker Eddy's *Science and Health; With Key to the Scriptures,* including "all editions thereof in English and translation heretofore or hereafter published." The bill was passed by the Senate, in amended form, on July 22, 1971.

JUDICIAL DEVELOPMENTS

The sole outstanding action against the register of copyrights at the beginning of the fiscal year was an attempt to compel the issuance of an amendment to the Regulations of the Copyright Office denying registration of copyright claims in works containing "advertising relating to cigarette and tobacco products and their use." The case of *Lewis* v. *Kaminstein,* Civil Action No. 428-69-A in the U.S. District Court for the Eastern District of Virginia, was terminated upon the plaintiff's unopposed motion, dated December 28, 1970, for dismissal with prejudice.

Subject Matter and Scope of Copyright Protection

Two copyrighted books by and about the deceased nightclub entertainer Lenny Bruce were

central to an infringement action against the producers of a biographical movie entitled *Dirtymouth* in *Marvin Worth Productions et al.* v. *Superior Films Corporation et al.*, 319 F.Supp. 1269 (S.D.N.Y. 1970). While the court approved issuance of a preliminary injunction, the judge took note of "some few jokes which I find to involve stock situations and to lack the quality of originality necessary to render them copyrightable" and "a few items which in my opinion are entirely factual in nature, and thus not entitled to protection."

A commercial label containing more than 50 words of text together with a pictorial representation of a woman and a pair of scissors was held a "proper subject of copyright protection" in *Abli, Inc.* v. *Standard Brands Paint Co.*, 323 F.Supp. 1400 (C.D. Cal. 1970). In addition to a finding of originality, the court found that the label "was more than merely descriptive and was dictated by more than functional considerations."

A comparison between similar textile designs involved in an infringement action occupied the court in *Slifka et al., d.b.a. Lonsdale Mills* v. *Citation Fabrics Corp.*, 169 U.S.P.Q. 545 (S.D.N.Y. 1971), which denied a motion for preliminary injunction "however things might stand with the designs alone." Characterized by "marked similarities" and yet exhibiting "differences in execution," the two designs were deemed "far from identical." Nevertheless, the opinion noted that the colors in the two fabric samples "are strikingly similar, and this is a factor to be weighed despite the agreed noncopyrightability of color as such." The court contrasted the overall effect of the two designs, noting "the feeling quality and sensory impact of the whole," in addition to the "feeling of measure and order" produced by the "regular rectangular stripes" of the plaintiff's fabric on the one hand, and on the other, the "quality of speedy movement quite different in its impact" produced by the defendant's "more jagged motif." The court observed further that "both parties have worked in a heavily traveled terrain where comparatively modest distinctions may be sufficient to avoid charges of infringement."

The last point was also emphasized by the same court in *Concord Fabrics, Inc.* v. *Generation Mills, Inc.*, 169 U.S.P.Q. 470 (S.D.N.Y. 1971), which involved a copyrighted design of "large alternating squares of Madras-type patterns and solids." Conceding the validity of the plaintiff's copyright "only for purposes of the pending motion [for preliminary injunction]," the court noted that "a basic fabric design called 'Indian Madras Plaid' is not original with plaintiff" but was apparently satisfied that the plaintiff's design achieved a sufficiently "distinguishable variation" to meet the requirement of originality. The court remarked: "At least where a design concept has been worked over by many prior designers, the showing of originality necessary to uphold the validity of a copyright is small."

The motion was denied, however, with the paradoxical observation that the validity of the copyright depends upon an analysis which "moves, in the end, very close to the argument defeating the charge of infringement," since "small variations by subsequent designers may protect them from charges of infringement" where the basic design is not original. Having compared the two designs, the court found that their respective differences, though "small," were nevertheless "meaningful ones," and that "[t]he end result of these differences . . . is that defendant's fabric is considerably more lively in appearance."

In *Covington Fabrics Corp. et al.* v. *Artel Products, Inc.*, 169 U.S.P.Q. 26 (S.D.N.Y. 1971), an action for infringement of a copyrighted floral design on textile fabric produced an opposite result. The opinion took note that "[f]loral designs are copyrightable, and the configuration of the design, including such detail as petals and leaves, often requires 'an appreciable amount of creative skill and judgment.'" Although comparison of the two floral designs disclosed "some minor differences with respect to the shape of some petals and the placement of some flowers and leaves within the arrangement," the court found both designs "virtually identical" in many portions and concluded: "We think that due to the shapes and sizes of the flowers and leaves, their arrangement within the pattern and the overall appearance, the average observer would

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probably find the designs substantially similar."

Much of the court's language in the preceding case was patterned after the opinion in *Thomas Wilson & Company, Inc.* v. *Irving J. Dorfman Company, Inc.*, 433 F.2d 409 (2d Cir. 1970); *cert. denied*, 401 U.S. 977 (1971), which affirmed judgment for the plaintiff in an action for infringement of a pansy design in lace for women's lingerie. Observing first that "neither the Constitution nor the Copyright Act refers to originality in the creative sense," the court went on to say that "the required creativity for copyright is modest at best," and that the "configuration" of plaintiff's design, "including such details as petals and leaves, required an appreciable amount of creative skill and judgment." The final pronouncement suggested an almost reluctant concession: "While plaintiff's lace design is not what the phrase 'work of art' ordinarily calls to mind, it possesses more than the 'faint trace' of originality required."

In *Couleur International Ltd.* v. *Opulent Fabrics Inc. et al.*, 169 U.S.P.Q. 294 (S.D.N.Y. 1971), the court described the infringing work as "a plodding copy across the board with only childishly disingenuous deviations." The comparison of fabric samples upon which the infringement ruling was based is instructive:

> Each design is based upon a repetition of six stripes. Corresponding stripes are of identical width, and contain only slightly different figures and patterns: plaintiff's circles surrounded by dots become defendant's rounded-off squares surrounded by dots . . .; spirals become concentric squares; small repeating triangles become small repeating diamonds. The spacing of the similar figures is the same in the two versions. One of the defendant's samples is printed in colors which are identical to those in one of plaintiff's fabrics. . . . Defendant's other fabric sample changes colors somewhat; orange is substituted in some places for brown, the brown that remains is darkened, and a blue replaces red in one of the stripes. But this blue is the identical shade plaintiff uses in a differently colored version of its design. . . . Finally, the fabric materials are a similar polyester, defendant's being somewhat thinner and less elastic.

Invoking the authority of Judge Learned Hand, who had characterized the legal test for infringement as "vague," the court described the decision-making process as "necessarily" ad hoc, involving "a particularized assessment of the facts in any given case." Extra-legal factors also enter in. "Good eyes and common sense may be as useful as deep study of reported and unreported cases, which themselves are tied to highly particularized facts. "Although the court conceded that "the fabrics in this case are not identical," the differences in the designs were considered to be "so small that, when taken together with defendant's conceded 'borrowing' from plaintiff's design, the deviations come across vividly as the kind of 'studied effort to make minor distinctions' which is 'itself evidence of copying.' "

Publication

A number of important aspects of publication in the copyright sense were considered in an action for declaratory judgment invalidating copyright in a monumental sculpture donated to the city of Chicago by its author, Pablo Picasso. In *The Letter Edged in Black Press, Inc.*, v. *Public Building Commission of Chicago*, 320 F.Supp. 1303 (N.D. Ill. 1970), the court held that a general publication occurred without the required statutory notice. The court mentioned by way of contrast the case in which "an artist shows a painting to a selected group of his friends, for the limited purpose of obtaining their criticism," noting that in such event "the publication will be said to be limited and thus not divestive of the artist's common law copyright."

Of special interest in the case is the holding that publication of the maquette or model without notice sufficed to dedicate the monumental counterpart to the public domain. The court reasoned that copyright could have existed only in the maquette at the time Picasso signed the deed of gift, since the monumental sculpture did not exist at that time.

The maquette "was an original, tangible work of art which would have qualified for statutory copyright protection. . . . [W]hen the maquette was published without statutory notice Picasso's work was forever lost to the public domain. When the monumental sculpture was finally completed it could not be copyrighted for it was a mere copy, albeit on a grand scale, of the

maquette, a work already in the public domain."

Apropos the exhibition of the model, the court found that "there were no restrictions on copying and no guards preventing copying. . . ." There is also the implication that the distribution of photographs likewise constituted a publication, inasmuch as "the press was freely allowed to photograph the maquette and publish these photographs in major newspapers and magazines.' Moreover, "[o]fficials at this first public showing . . . made uncopyrighted pictures of the maquette available upon request. Were this activity classified as limited publication, there would no longer be any meaningful distinction between limited and general publication. The activity in question does not comport with any definition of limited publication."

A business organization engaged in executive counseling provided "a large leather bound book" on career advancement to prospective clients. Use of the book, which bore no copyright notice, was restricted to the firm's reception room, and when a client departed, the work was retrieved by the receptionist. In *Frederick Chusid & Company* v. *Marshall Leeman & Co., Inc. et al.,* 168 U.S.P.Q. 755 (S.D.N.Y. 1971), the court held that the book was clearly not published "because it was not permitted to be taken from the Chusid offices, and was too much to be memorized."

The effect of publishing uncopyrighted alphabets was examined in *Bailey d.b.a. Lettergraphics Photo Process Lettering Service* v. *Logan Square Typographers, Inc. et al.,* 169 U.S.P.Q. 322 (7th Cir. 1971), an action for misappropriation of intellectual property. Regarding protection of the individual characters in plaintiff's alphabets, the court, relying on the *Sears* and *Compco* decisions, reasoned that "[s]ince no federal copyright has been obtained, such copying of published matter [alphabets freely used in publicly distributed printed matter] may not be prohibited, even if we assume that plaintiff's designs are unique, valuable, and the product of his own creative talent."

More specifically, "[j]ust as Sears [Roebuck & Co.] had the right to make and vend copies of unpatented Stiffel lamps purchased on the open market, so also do defendants have a federal right to make copies of plaintiff's letters and designs from printed matter distributed in the open market, to assemble complete alphabets from such public materials, and thereafter to use such copies in their own businesses." In remanding the case to the State court on jurisdictional grounds, however, the court said that, while the "claimed monopoly interest" in the design of individual published letters must be rejected, "the aggregate value" of an unpublished "compilation of alphabets" may be protected independently of the Federal copyright and patent laws.

In *Marvin Worth Productions et al.* v. *Superior Films Corporation et al.,* mentioned earlier, the contention was made that portions of the allegedly infringing material were in the public domain since they were "derived solely from the transcripts or opinions" in criminal prosecutions brought against the late Lenny Bruce, by and about whom the copyrighted books in question were written. Referring to the "opposite" policy suggested by §8 of Title 17, U.S.C., the court dismissed the defense as being "without merit." Indeed, "[t]o hold that such originally copyrighted material becomes somehow dedicated by use in the courts would permit the unraveling of the fabric of copyright protection."

Notice of Copyright

The absence of the requisite notice of copyright at the time general publication first occurred was held to invalidate copyright of a Picasso sculpture in *The Letter Edged in Black Press, Inc.* v. *Public Building Commission of Chicago,* discussed previously. Although the finished sculpture bore a copyright notice when it was formally dedicated at Chicago's new Civic Center on August 15, 1967, the court found that the work had been placed in the public domain as early as September 20, 1966, when the maquette or model of the sculpture was placed on public exhibition at the Art Institute. The maquette lacked a notice, but the following legend was posted in the institute:

The rights of reproduction are the property of the Public Building Commission of Chicago. © 1966. All Rights Reserved.

In addition to finding that "the display of the maquette constituted general publication," the court noted that although the "Commission [the alleged copyright proprietor] was able to place improper notice at the showing, i.e., notice in the room, . . . it did not comply with the statutory requirement that notice be placed on the work itself in order to be effective." The court's opinion concluded with the observation that "a strict adherence to copyright law . . . is also in consonance with the policy of enriching society which underlies our copyright system. The broadest and most uninhibited reproduction and copying of a provocative piece of public sculpture can only have the end result of benefiting society."

In *Herbert Rosenthal Jewelry Corp.* v. *Grossbardt et al., t/a Honora Jewelry Co.*, 436 F.2d 315 (2d Cir. 1970), the court upheld use in the copyright notice of the letters "HR" within a diamond-shaped figure as the name of the copyright owner, on the ground that "the HR trademark was widely enough known to serve as an adequate substitute for the full Rosenthal name." The case involved a jewelled pin in the form of a diamond-encrusted bee. In reference to earlier litigation between the same parties concerning a jewelled turtle pin the judge remarked: "Although the animals differ, the tune remains the same."

The accidental omission of the copyright notice from "a small percentage of plaintiff's fabric" did not prevent issuance of a preliminary injunction in *Leon B. Rosenblatt Textiles Ltd.* v. *M. Lowenstein & Sons, Inc.*, 321 F.Supp. 186 (S.D.N.Y. 1970), because the court held that §21 of the statute negated any implication of abandonment. Replying to the contention that the notice on the selvage of plaintiff's fabric did not occur at least once for every repeat of the design, the opinion observed that "[t]he design does not . . . repeat every 8¾ inches merely because one feature of the overall complex design so repeats; rather, . . . a repeat or copy of this design within the meaning of the notice requirement of 17 U.S.C. §10 occurs only upon each repeat or copy of the entire 18 inch design. Notice is required at least once on each turn of the roller; that is met here."

Registration

The timeliness of filing for registration in the Copyright Office was considered by the court in *Frederick Chusid & Company* v. *Marshall Leeman & Co., Inc. et al.*, mentioned earlier. A delay of seven years between first publication and registration did not "bar plaintiff from maintaining an infringement action for acts occurring prior to deposit," notwithstanding "the statutory requirement that copies be 'promptly deposited' after publication (17 U.S.C. §13)."

Jewelled pins in the shape of a bee and a turtle made another courtroom appearance in *Herbert Rosenthal Jewelry Corp.* v. *Zale Corporation et al.*, 323 F.Supp. 1234 (S.D.N.Y. 1971). A preliminary injunction was awarded on the grounds that a "lawfully issued certificate of registration ordinarily suffices to prove the validity of the copyright and plaintiff's ownership of it, if otherwise unchallenged."

In *Concord Fabrics, Inc.* v. *Generation Mills, Inc.*, 169 U.S.P.Q. 470 (S.D.N.Y. 1971), the plaintiff had relied heavily upon the prima facie evidential value of its certificate of registration for a copyrighted Madras-type textile design but a preliminary injunction was denied.

Conceding the validity of the copyright "only for purposes of the pending motion," the court observed in an explanatory footnote that "it seems obvious that a certificate of registration is prima facie evidence of a valid copyright only 'in the absence of contradictory evidence.' . . . Here, defendant has introduced considerable evidence to cast serious doubt on the validity of plaintiff's copyright, and plaintiff cannot foreclose evaluation of this evidence merely by pointing to its certificate."

The value of the certificate was emphatically upheld in *Covington Fabrics Corp. et al.* v. *Artel Products, Inc.*, 169 U.S.P.Q. 26 (S.D.N.Y. 1971), despite the defendant's contention that the copyrighted pattern design was not original. In granting a preliminary injunction, the court pointed out that the "certificate of registration is prima facie evidence of the validity of the copyright, and defendant has the burden of overcoming this presumption of validity."

In *Thomas Wilson & Company, Inc.* v. *Irving J.*

Dorfman Company, Inc., discussed previously, which dealt with a copyrighted lace design based upon a floral pansy motif, the court, in affirming judgment for the plaintiff, took note of the prima facie evidence of "a validly issued copyright" which the defendant failed to overcome. Two versions of the pansy design had been registered in the Copyright Office, and both certificates contained errors which were not deemed fatal. The author named on each was the president of the plaintiff corporation rather than the corporation itself. This error was described in the opinion as "minor, . . . [and] made in good faith." Moreover, it "could not have affected the action taken by the Copyright Office." Although the later of the two lace designs was "an adaptation" of the earlier one, apparently no mention of "new matter" appeared in the certificate of registration issued for the later version. The omission was considered "potentially more serious" inasmuch as it could be viewed as "an attempt to obtain an unjustifiable extension of copyright monopoly," but the court found it to have been "clearly innocent" in this case.

Omission of any statement of new matter on the plaintiff's certificate of registration was likewise involved in *Runge* v. *Lee*, 169 U.S.P.Q. 388 (9th Cir. 1971); *petition for cert. filed*, 39 U.S.L.W. 3558 (U.S. June 11, 1971) (No. 1808), where judgment for plaintiff was upheld in an action for the infringement of a book on facial exercise which incorporated a previously published magazine article. The court stated that the omission "was innocuous and did not render the copyright invalid" but also declared that "[t]here was certainly no evidence that Runge's application [for registration] was intended to or did in fact deceive or mislead anyone."

In *Herbert Rosenthal Jewelry Corp.* v. *Grossbardt, et al., t/a Honora Jewelry Co.*, mentioned earlier, the defendants contended that the publication date on the copyright application was fraudulently changed from November 1964 to October 1962 after it was learned that the alleged copying occurred before the publication date originally given. The court ruled that the trial judge's finding that "no fraud was practiced on the Copyright Office" was "surely not clearly erroneous."

Ownership and Transfer of Rights

Ownership of both original and renewal rights in the popular song "Who's Afraid of the Big Bad Wolf?" from the 1933 Walt Disney cartoon movie *Three Little Pigs* was the principal issue in *Picture Music, Inc.* v. *Bourne, Inc.*, 314 F.Supp. 640 (S.D.N.Y. 1970). Adaptation of the movie version of the song required incidental musical changes and additional lyrics, provided in part by a songwriter from whom plaintiff's claim derived. The court found that there had been no joint ownership in the song and "no collaboration" between the author of the original movie material and plaintiff's predecessor, whose contribution was not only "not a new version of the music or lyrics" but was even of doubtful copyrightability. The opinion noted that "[t]he additions were too insubstantial to induce an owner to share its copyrights or their ownership or do more than pay fair compensation for the services rendered." The problem of employment for hire received considerable attention from the court, which used contemporary evidence of the intention of the parties concerning transfer of interests to resolve the basic issue of title in the defendant's favor. The defendant had registered the renewal claims as proprietor of a work made for hire. The court held, however, that even if the plaintiff's predecessor in title had been adjudged an "independent contractor," the evidence was conclusive that this party "conveyed and intended to convey her contribution to the adaptation and arrangement of the original material together with. . . all her . . . copyrightable interest, original and renewal, in the song."

One of the issues discussed in the previously mentioned case of *The Letter Edged in Black Press, Inc.* v. *Public Building Commission of Chicago* was the defendant's contention that the appearance without copyright notice of pictorial reproductions of the maquette of a monumental sculpture in various newspapers and magazines did not constitute divestive publication because the illustrations "were protected under the copyright secured by the media in their own publication." In holding that the general notice applicable to the periodicals as a whole did not sustain copyright in the owner of the illustra-

tions, the court distinguished *Goodis* v. *United Artists Television, Inc.,* 425 F.2d 397 (2d Cir. 1970), which upheld the copyright of the author of a novel that had been published in a magazine in serial installments with only a general notice in the periodical in the name of its publisher who owned the serialization rights.

Unlike the *Goodis* case, said the court, the newspapers and magazines publishing pictures of the maquette did not have sufficient interest in the work of art. Indeed, "[t]he publishers in the case at bar had no interest whatever in the pictures of the work that they published. Accordingly, the court finds that the copyrights of the publishers in their own publications do not serve to rescue the defendant's copyright in this case."

Infringement and Remedies

In *Runge* v. *Lee et al.,* 169 U.S.P.Q. 388 (9th Cir. 1971); *petition for cert. filed,* 39 U.S.L.W. 3558 (U.S. June 11, 1971) (No. 1808), a successful action for copyright infringement and unfair competition, the court upheld the trial judge's exercise of discretion in awarding plaintiff the jury's determination of $80,000 for compensatory damages from infringement of a book on scientific facial exercises, rather than the lesser amount of $64,235 stipulated by the defendants as the infringers' profits. Also upheld were instructions to the jury on the question of whether the defendant had made an independent treatment of the subject matter or had merely copied from plaintiff's book. The instructions read in part as follows: "A new treatment of a subject matter that demonstrates its independent production, or using a prior work, as a model, is allowable and not an unlawful copy. If you find that a subsequent writer used her own labors, skills or common sources of knowledge open to all men, and that the resemblances are accidental, or arise from the nature of the subject matter, this does not amount to a wrongful copying . . . ." The jury's finding against the defendants on this issue was sustained.

Receipts from a trust fund composed of accumulated royalty earnings from sales of a copyrighted book were held taxable as ordinary income rather than capital gain in *Picchione et al.* v. *Comr. Internal Revenue,* 54 T.C. 1490 (1970); *aff'd,* 169 U.S.P.Q. 65 (1st Cir. 1971); *petition for cert. filed,* 39 U.S.L.W. 3550 (U.S. June 7, 1971) (No. 1789). The income in question derived from a copyright which the taxpayer sold in 1946 in exchange for specified future payments. In 1950 the tax law was amended to exclude copyright from the definition of "capital assets." In 1952 the taxpayer assigned his income rights to a trust, the receipts from which were at issue for the years 1964-66. Explaining its decision, the court stated that the "law in effect at the time payment is made [1964-66], rather than the time of the sale [of the copyright in 1946], determines the character of the income."

In *Consumers Union of the United States* v. *Theodore Hamm Brewing Co., Inc.,* 314 F.Supp. 697 (D.Conn. 1970), an action by a product testing and research organization for unfair commercialization of material published in *Consumers Reports* magazine, a preliminary injunction was granted because the defendant had distributed thousands of copies of an article on beer taken from the plaintiff's magazine and had made no challenge to the validity of the plaintiff's copyright or the required notice of copyright.

The lower court's cumulative award of both the copyright proprietor's damages and the infringer's profits was upheld in *Thomas Wilson & Company, Inc.* v. *Irving J. Dorfman Company, Inc.,* cited earlier, even though the same customer was involved in both the plaintiff's lost sales and the defendant's infringing sales. Also upheld was the trial court's calculation of the infringer's profits. In reply to the defendant's objection that certain costs had been omitted from the computations, the court noted the defendant's failure to supply the omissions during the trial and pointed out that under the "statutory presumption" of 17 U.S.C. §101(b), the plaintiff had only to prove the defendant's sales but the defendant had the burden of proving "every element of cost" claimed by him.

In *Herbert Rosenthal Jewelry Corp.* v. *Zale Corporation et al.,* discussed previously, copyright infringement was held to be "shown by establishing that the similarity between the products would lead 'an average lay observer . . .

[to] recognize the alleged copy as having been appropriated from the copyrighted work.' " The court defined the average lay observer as one who "was not attempting to discover disparities" between the products.

Unfair Competition and Other Theories of Protection

Summary judgment for the defendants was affirmed in *Sinatra* v. *The Goodyear Tire & Rubber Co., et al.,* 435 F.2d 711 (9th Cir. 1970); *cert. denied,* 169 U.S.P.Q. 321 (1971), an action for unfair competition brought by a professional entertainer against the producer and sponsor of radio and television commercials allegedly imitative of the voice, style, mannerisms, and the like exhibited in the plaintiff's rendition of a popular song entitled "These Boots Are Made for Walkin'." Copyright infringement was not involved since the proprietor of the music, lyrics, and arrangement of the song had licensed its commercial use on radio and television to the defendants for advertising purposes.

Although the advertising campaign for tires built around the theme of "wide boots" admittedly involved "an imitation of plaintiff's recorded performance of this particular song," no actual tape or other recording of the plaintiff's voice was replayed, nor was the imitation falsely represented as a Nancy Sinatra rendition. Furthermore, no claim was asserted in the uniquely personal sound of individual vocal characteristics, but rather it was "the sound in connection with the music, lyrics and arrangement, which made her the subject of popular identification," for which plaintiff sought protection even though "as to these latter copyrightable items she had no rights."

Citing as controlling the twin cases of *Sears, Roebuck & Co.,* v. *Stiffel Co.* 376 U.S. 225 (1964), and *Compco Corp.* v. *Day-Brite Lighting, Inc.,* 376 U.S. 234 (1964), the court observed that "to allow unfair competition protection where Congress has not given federal protection is in effect granting state copyright benefits without the federal limitations of time to permit definite public domain use." With a reminder that the motives of a copier in situations of the *Sears* and *Compco* type were not relevant, the court also observed that, as a practical matter, a licensee "may well be discouraged to the point of complete loss of interest" because of another clash with the copyright laws, namely, "the potential restriction which recognition of performers' 'secondary meanings' places upon the potential market of the copyright proprietor."

In *Jaeger* v. *American International Pictures, Inc.,* 169 U.S.P.Q. 668 (S.D.N.Y. 1971), a motion to dismiss the complaint was denied because, apart from the question of whether the "moral right" of artists as recognized abroad has any exact counterpart in American law, there was "enough in plaintiff's allegations to suggest that he may yet be able to prove a charge of unfair competition or otherwise tortious misbehavior in the distribution to the public of a film that bears his name but at the same time severely garbles, distorts or mutilates his work." Moreover, it was at least deemed arguable that the defendant represented to the public "that what the plaintiff had nothing to do with is the plaintiff's product."

The so-called piratical duplication of sound recordings, which has become a matter of great concern to the recording and music publishing industries both here and abroad, has generated much litigation as well as proposals for legislation and an international convention. Particularly noteworthy are several of this year's judicial decisions on the issue. In *Tape Industries Association of America et al.* v. *Younger et al.,* 316 F.Supp. 340 (C.D. Cal. 1970); *appeal dismissed,* 401 U.S. 902 (1971), an action for declaratory judgment against the District Attorney for the County of Los Angeles, the issue was California's "tape piracy" law, which plaintiffs contended was in conflict with the Federal Constitution and copyright law.

The three-judge court rendered judgment for the defendants, rejecting the argument that the preemption doctrine enunciated in the above-mentioned *Sears* and *Compco* decisions "precludes California and all other states from proscribing the mere duplication of unpatented and uncopyrighted material." The opinion noted that the plaintiffs "do not imitate the product of the record companies. They actually take and

appropriate the product itself—the sounds recorded on the albums—and commercially exploit the product. *Sears* and *Compco* would cover and immunize the plaintiffs here only if they had copied and imitated the product—that is, if they had listened to the sounds performed and embodied on the records and then had expended the necessary sums to copy and imitate the sounds on their own tapes."

A lower court's denial of injunctive relief based upon the rulings of the United States Supreme Court in the *Sears* and *Compco* cases was overturned in *Capitol Records, Inc.* v. *Spies,* 264 N.E. 2d 874 (Ill. App. Ct. 1970), an action involving the manufacture and sale of magnetic-tape reproductions of uncopyrighted sound recordings. Holding the *Sears* and *Compco* decisions inapplicable, the court relied instead upon *International News Service* v. *Associated Press,* 248 U.S. 215 (1918), to support its approval of a temporary injunction. As the opinion explained, "[t]he evidence reveals that Spies was not merely copying unpatented or uncopyrighted articles, but that he was actually taking and appropriating Capitol's product itself—the actual sounds recorded on the albums. Spies was thus relieved of the necessity of contracting with various performers so that he might produce a recording; he needed only to wait until a particular rendition produced by Capitol became popular and then was able to take advantage of the existing market." The Court noted that "Capitol spent between $50,000.00 and $75,000.00 on each record album before releasing it for sale."

In *Liberty U/A, Inc.* v. *Eastern Tape Corporation et al.,* Action No. 7126 SC 259 in the North Carolina Court of Appeals, April 28, 1971, the *International News Service* decision was also held controlling because "the conduct of defendants here is so remarkably similar to the conduct condemned in the *I.N.S.* case." Affirming judgment in plaintiff's favor for the unfair appropriation of its sound recordings, in which "no statutory or common law copyrights" were claimed, the court conceded that the defendants' conduct would have been immune if the copying consisted of no more than obtaining the same artist to record the same musical composition in an identical manner but pointed out that permissible copying of that kind was "a far cry from appropriating, for use in competition with plaintiff, the very product which plaintiff produced with its own resources."

Also involved was a state statute enacted in 1939 which expressly abolished "any common law right to restrict the use" of sound recordings sold in commerce. Enactment of the statute was apparently in response to a Federal court decision in *Waring* v. *Dunlea,* 26 F.Supp. 338 (E.D.N.C. 1939), holding that an orchestra conductor had a common law property right in his recordings, which could not be freely broadcast by radio without his permission. The court construed the word "use" appearing in the statute as being restrictively limited to the playing of the recording but not applicable to its duplication for sale in competition with the original record producer.

INTERNATIONAL COPYRIGHT DEVELOPMENTS

International copyright continued to play an important role in the work of the Copyright Office in fiscal 1971. Of principal significance was the continuing effort to find solutions to the international copyright crisis resulting from the Stockholm Conference of 1967 and the Protocol Regarding Developing Countries that was then integrated into the Berne Convention. Other international activities involved such diverse subjects as type faces, phonograms, computers, and communications satellites.

In September 1970, the Intergovernmental Copyright Committee of the Universal Copyright Convention (UCC) and the Berne Permanent Committee of the Berne Convention met in Paris to make final preparations for the diplomatic conferences to revise the two conventions. At issue was the fate of the Stockholm Protocol, the concessions that developed countries were willing to make to developing countries, and the future relationship between the Berne and Universal Conventions. The U.S. delegation included the register of copyrights, the assistant register of copyrights, and other members of the Copyright Office staff, as well as representatives of the State Department.

In February 1971 the World Intellectual Property Organization (WIPO) played host to representatives from 15 countries at the fifth session of the Committee of Experts on the International Protection of Type Faces. The assistant register of copyrights represented the United States. The main task of the committee was to examine preliminary drafts of the Special Agreement and Regulations for the Protection of Type Faces and Their International Registration. As proposed by WIPO, these documents will be submitted in due course to a diplomatic conference scheduled to be held in Vienna in 1973.

A committee of governmental experts met in Paris under the auspices of UNESCO and WIPO in March 1971 to prepare an international agreement to protect producers of phonograms against the unauthorized duplication of their recordings. The assistant register of copyrights served as chairman of the U.S. delegation, which included representatives of both Government and private industry, and was elected chairman of the meeting.

As a result of the meeting, a draft text of a new convention was agreed upon that will prohibit, in the contracting states, the unauthorized manufacture, duplication, and importation of sound recordings, where such acts take place for the purpose of distributing the recordings to the public. It was further agreed that the draft text will be submitted to a diplomatic conference to be held in Geneva in October 1971.

An advisory group of government experts met in Geneva in March 1971 under the auspices of WIPO to conduct a preliminary evaluation of various means for the legal protection of computer programs at the national and international levels. The group also discussed new international arrangements or modifications of existing arrangements that might be necessary once a form of protection is adopted.

In April 1971, UNESCO and WIPO convened a committee of governmental experts at Lausanne, Switzerland, to discuss copyright problems associated with the transmission of radio and television programs by communications satellite. As a result of the meeting, a draft text of a new convention prohibiting the unauthorized distribution of program-carrying signals communicated by satellite was adopted. The meeting recommended that the draft text be submitted to states and interested international nongovernmental organizations and that further meetings be held on the subject. The assistant register of copyrights was chairman of the U.S. delegation, which also included representatives of the State Department and private industry.

Hungary and Mauritius adhered to the Universal Copyright Convention during fiscal 1971. Its membership was thereby increased to 60 countries (inclusive of the Philippines, whose official UCC status remains unclear). Upper Volta's denunciation of the Berne Convention for the Protection of Literary and Artistic Works became effective during the fiscal year, reducing its membership to 59 countries. There was no change in the membership, numbering 11 countries, of the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, commonly known as the Rome Convention on Neighboring Rights.

Respectfully submitted,

ABRAHAM L. KAMINSTEIN
Register of Copyrights

International Copyright Relations of the United States as of June 30, 1971

This table shows the status of United States copyright relations with other independent countries of the world. The following code is used:

UCC	Party to the Universal Copyright Convention, as is the United States.
BAC	Party to the Buenos Aires Convention of 1910, as is the United States.
Bilateral	Bilateral copyright relations with the United States by virtue of a proclamation or treaty.
Unclear	Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status.
None	No copyright relations with the United States.

Country	Status of copyright relations
Afghanistan	None
Albania	None
Algeria	Unclear
Andorra	UCC
Argentina	UCC, BAC, Bilateral
Australia	UCC, Bilateral
Austria	UCC, Bilateral
Barbados	Unclear
Belgium	UCC, Bilateral
Bhutan	None
Bolivia	BAC
Botswana	Unclear
Brazil	UCC, BAC, Bilateral
Bulgaria	None
Burma	Unclear
Burundi	Unclear
Cambodia	UCC
Cameroon	Unclear
Canada	UCC, Bilateral
Central African Republic	Unclear
Ceylon	Unclear
Chad	Unclear
Chile	UCC, BAC, Bilateral
China	Bilateral
Colombia	BAC
Congo (Brazzaville)	Unclear
Congo (Kinshasa)	Unclear
Costa Rica	UCC, BAC, Bilateral
Cuba	UCC, Bilateral
Cyprus	Unclear
Czechoslovakia	UCC, Bilateral
Dahomey	Unclear
Denmark	UCC, Bilateral
Dominican Republic	BAC
Ecuador	UCC, BAC
Egypt	None
El Salvador	Bilateral by virtue of Mexico City Convention, 1902
Equatorial Guinea	Unclear
Ethiopia	None
Fiji	Unclear
Finland	UCC, Bilateral
France	UCC, Bilateral
Gabon	Unclear
Gambia	Unclear
Germany	Bilateral; UCC with Federal Republic of Germany
Ghana	UCC
Greece	UCC, Bilateral
Guatemala	UCC, BAC
Guinea	Unclear
Guyana	Unclear
Haiti	UCC, BAC
Holy See (Vatican City)	UCC
Honduras	BAC
Hungary	UCC, Bilateral
Iceland	UCC
India	UCC, Bilateral
Indonesia	Unclear
Iran	None
Iraq	None
Ireland	UCC, Bilateral
Israel	UCC, Bilateral
Italy	UCC, Bilateral
Ivory Coast	Unclear
Jamaica	Unclear
Japan	UCC
Jordan	Unclear
Kenya	UCC
Korea	Unclear

Country	Status of copyright relations	Country	Status of copyright relations
Kuwait	Unclear	Romania	Bilateral
Laos	UCC	Rwanda	Unclear
Lebanon	UCC	San Marino	None
Lesotho	Unclear	Saudi Arabia	None
Liberia	UCC	Senegal	Unclear
Libya	Unclear	Sierra Leone	Unclear
Liechtenstein	UCC	Singapore	Unclear
Luxembourg	UCC, Bilateral	Somalia	Unclear
Madagascar	Unclear	South Africa	Bilateral
Malawi	UCC	Soviet Union	None
Malaysia	Unclear	Spain	UCC, Bilateral
Maldives	Unclear	Sudan	Unclear
Mali	Unclear	Swaziland	Unclear
Malta	UCC	Sweden	UCC, Bilateral
Mauritania	Unclear	Switzerland	UCC, Bilateral
Mauritius	UCC	Syria	Unclear
Mexico	UCC, BAC, Bilateral	Tanzania	Unclear
Monaco	UCC, Bilateral	Thailand	Bilateral
Morocco	Unclear	Togo	Unclear
Nauru	Unclear	Tonga	None
Nepal	None	Trinidad and Tobago	Unclear
Netherlands	UCC, Bilateral	Tunisia	UCC
New Zealand	UCC, Bilateral	Turkey	None
Nicaragua	UCC, BAC	Uganda	Unclear
Niger	Unclear	United Kingdom	UCC, Bilateral
Nigeria	UCC	Upper Volta	Unclear
Norway	UCC, Bilateral	Uruguay	BAC
Oman	None	Venezuela	UCC
Pakistan	UCC	Vietnam	Unclear
Panama	UCC, BAC	Western Samoa	Unclear
Paraguay	UCC, BAC	Yemen (Aden)	Unclear
Peru	UCC, BAC	Yemen (San'a)	None
Philippines	Bilateral	Yugoslavia	UCC
Poland	Bilateral	Zambia	UCC
Portugal	UCC, Bilateral		

Copyright Registrations, 1790-1971

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1790-1869	150,000					150,000
1870		5,600				5,600
1871		12,688				12,688
1872		14,164				14,164
1873		15,352				15,352
1874		16,283				16,283
1875		15,927	267		267	16,194
1876		14,882	510		510	15,392
1877		15,758	324		324	16,082
1878		15,798	492		492	16,290
1879		18,125	403		403	18,528
1880		20,686	307		307	20,993
1881		21,075	181		181	21,256
1882		22,918	223		223	23,141
1883		25,274	618		618	25,892
1884		26,893	834		834	27,727
1885		28,411	337		337	28,748
1886		31,241	397		397	31,638
1887		35,083	384		384	35,467
1888		38,225	682		682	38,907
1889		40,985	312		312	41,297
1890		42,794	304		304	43,098
1891		48,908	289		289	49,197
1892		54,735	6		6	54,741
1893		58,956		1	1	58,957
1894		62,762		2	2	62,764
1895		67,572		6	6	67,578
1896		72,470	1	11	12	72,482
1897		75,000	3	32	35	75,035
1898		75,545	71	18	89	75,634
1899		80,968	372	76	448	81,416
1900		94,798	682	93	775	95,573
1901		92,351	824	124	948	93,299
1902		92,978	750	163	913	93,891
1903		97,979	910	233	1,143	99,122
1904		103,130	1,044	257	1,301	104,431
1905		113,374	1,028	345	1,373	114,747
1906		117,704	741	354	1,095	118,799
1907		123,829	660	325	985	124,814
1908		119,742	636	279	915	120,657
1909		120,131	779	231	1,010	121,141
1910		109,074	176	59	235	109,309
1911		115,198	576	181	757	115,955
1912		120,931	625	268	893	121,824
1913		119,495	664	254	918	120,413
1914		123,154	720	339	1,059	124,213
1915		115,193	762	321	1,083	116,276

Copyright Registrations, 1790-1971—Continued

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1916		115,967	833	402	1,235	117,202
1917		111,438	781	342	1,123	112,561
1918		106,728	516	192	708	107,436
1919		113,003	572	196	768	113,771
1920		126,562	622	158	780	127,342
1921		135,280	1,118	367	1,485	136,765
1922		138,633	1,560	541	2,101	140,734
1923		148,946	1,549	592	2,141	151,087
1924		162,694	1,350	666	2,016	164,710
1925		165,848	1,400	615	2,015	167,863
1926		177,635	1,676	868	2,544	180,179
1927		184,000	1,782	1,074	2,856	186,856
1928		193,914	1,857	944	2,801	196,715
1929		161,959	1,774	933	2,707	164,666
1930		172,792	1,610	723	2,333	175,125
1931		164,642	1,787	678	2,465	167,107
1932		151,735	1,492	483	1,975	153,710
1933		137,424	1,458	479	1,937	139,361
1934		139,047	1,635	535	2,170	141,217
1935		142,031	1,908	500	2,408	144,439
1936		156,962	1,787	519	2,306	159,268
1937		154,424	1,955	551	2,506	156,930
1938		166,248	1,806	609	2,415	168,663
1939		173,135	1,770	545	2,315	175,450
1940		176,997	1,856	614	2,470	179,467
1941		180,647				180,647
1942		182,232				182,232
1943		160,789				160,789
1944		169,269				169,269
1945		178,848				178,848
1946		202,144				202,144
1947		230,215				230,215
1948		238,121				238,121
1949		201,190				201,190
1950		210,564				210,564
1951		200,354				200,354
1952		203,705				203,705
1953		218,506				218,506
1954		222,665				222,665
1955		224,732				224,732
1956		224,908				224,908
1957		225,807				225,807
1958		238,935				238,935
1959		241,735				241,735
1960		243,926				243,926
1961		247,014				247,014
1962		254,776				254,776

Copyright Registrations, 1790-1971–Continued

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1963		264,845				264,845
1964		278,987				278,987
1965		293,617				293,617
1966		286,866				286,866
1967		294,406				294,406
1968		303,451				303,451
1969		301,258				301,258
1970		316,465				316,465
1971		329,696				329,696
Total	150,000	14,002,856	55,348	18,098	73,446	14,226,202

[1] Estimated registrations made in the offices of the Clerks of the District Courts (Source: pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870,* by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).

[2] Registrations made in the Library of Congress under the Librarian, calendar years 1870-1897 (Source: *Annual Reports* of the Librarian). Registrations made in the Copyright Office under the Register of Copyrights, fiscal years 1898-1971 (Source: *Annual Reports* of the Register).

[3] Labels registered in Patent Office, 1875-1940; Prints registered in Patent Office, 1893-1940 (Source: memorandum from Patent Office, dated Feb. 13, 1958, based on official reports and computations).

Registrations by Subject Matter Class, Fiscal Years 1967-71

Class	Subject matter of copyright	1967	1968	1969	1970	1971
A	Books (including pamphlets, leaflets, etc.)	80,910	85,189	83,603	88,432	96,124
B	Periodicals (issues)	81,647	81,773	80,706	83,862	84,491
	(BB) Contributions to newspapers and periodicals	1,696	2,026	1,676	1,943	1,884
C	Lectures, sermons, addresses	996	1,050	1,155	1,669	1,855
D	Dramatic or dramatico-musical compositions	3,371	3,214	3,213	3,352	3,553
E	Musical compositions	79,291	80,479	83,608	88,949	95,202
F	Maps	2,840	2,560	2,024	1,921	1,677
G	Works of art, models, or designs	4,855	5,236	5,630	6,807	7,916
H	Reproductions of works of art	2,586	2,785	2,489	3,036	3,047
I	Drawings or plastic works of a scientific or technical character	695	628	552	835	924
J	Photographs	722	734	936	1,171	1,160
K	Prints and pictorial illustrations	2,740	3,109	2,837	3,373	4,209
	(KK) Commercial prints and labels	5,862	5,972	4,798	5,255	4,424
L	Motion-picture photoplays	1,771	1,450	1,066	1,244	1,169
M	Motion pictures not photoplays	925	1,472	1,298	1,301	1,226
R	Renewals of all classes	23,499	25,774	25,667	23,316	20,835
	Total	294,406	303,451	301,258	316,466	329,696

Number of Articles Deposited, Fiscal Years 1967-71

Class	Subject matter of copyright	1967	1968	1969	1970	1971
A	Books (including pamphlets, leaflets, etc.)	159,954	168,452	164,958	174,519	189,887
B	Periodicals	162,763	162,988	160,707	166,976	168,114
	(BB) Contributions to newspapers and periodicals	1,696	2,026	1,676	1,943	1,884
C	Lectures, sermons, addresses	996	1,050	1,155	1,669	1,855
D	Dramatic or dramatico-musical compositions	3,780	3,599	3,563	3,751	3,993
E	Musical compositions	101,071	101,704	103,164	110,010	116,537
F	Maps	5,680	5,120	4,047	3,840	3,352
G	Works of art, models, or designs	8,549	9,016	9,688	11,736	13,894
H	Reproductions of works of art	5,122	5,440	4,811	6,046	6,056
I	Drawings or plastic works of a scientific or technical character	1,075	992	839	1,267	1,419
J	Photographs	1,186	1,239	1,565	2,080	2,056
K	Prints and pictorial illustrations	5,453	6,212	5,671	6,740	8,417
	(KK) Commercial prints and labels	11,707	11,909	9,595	10,510	8,846
L	Motion-picture photoplays	3,469	2,828	2,100	2,448	2,305
M	Motion pictures not photoplays	1,725	2,841	2,471	2,460	2,318
	Total	474,226	485,416	476,010	505,995	530,933

Number of Articles Transferred to Other Departments of the Library of Congress [1]

Class	Subject matter of articles transferred	1967	1968	1969	1970	1971
A	Books (including pamphlets, leaflets, etc.)	66,046	105,329	90,435	92,664	[2] 107,468
B	Periodicals	169,963	172,193	169,671	175,301	176,259
	(BB) Contributions to newspapers and periodicals	1,696	2,026	1,676	1,943	1,884
C	Lectures, sermons, addresses	0	0	0	0	0
D	Dramatic or dramatico-musical compositions	394	313	221	100	41
E	Musical compositions	23,430	24,485	25,021	25,235	25,567
F	Maps	5,697	5,127	4,102	3,946	3,352
G	Works of art, models, or designs	234	160	173	286	376
H	Reproductions of works of art	444	598	714	431	845
I	Drawings or plastic works of a scientific or technical character	0	2	2	0	0
J	Photographs	44	37	28	28	42
K	Prints and pictorial illustrations	464	643	819	370	614
	(KK) Commercial prints and labels	57	38	350	98	409
L	Motion-pictures photoplays	294	[3] 142	52	63	4
M	Motion pictures not photoplays	280	[3] 542	132	153	111
	Total	269,043	[3] 311,635	293,396	300,618	316,972

[1] Extra copies received with deposits and gift copies are included in these figures. For some categories, the number of articles transferred may therefore exceed the number of articles deposited as shown in the preceding chart.

[2] Of this total, 31,600 copies were transferred to the Exchange and Gift Division for use in its programs.

[3] Adjusted figure.

Gross Cash Receipts, Fees, and Registrations, Fiscal Years 1967-71

	Gross receipts	Fees earned	Registrations	Increase or decrease in registrations
1967	$1,892,419.54	$1,812,036.15	294,406	+7,540
1968	1,940,758.60	1,865,488.82	303,451	+9,045
1969	2,011,372.76	1,879,831.30	301,258	-2,193
1970	2,049,308.99	1,956,441.37	316,466	+15,208
1971	2,089,620.19	2,045,457.52	329,696	+13,230
Total	$9,983,480.08	$9,559,255.16	1,545,277	

Summary of Copyright Business

Balance on hand July 1, 1970		$ 533,863.05
Gross receipts July 1, 1970, to June 30, 1971		2,089,620.19
Total to be accounted for		$2,623,483.24
Refunded	$ 79,013.29	
Checks returned unpaid	4,384.35	
Deposited as earned fees	$2,027,038.53	
Balance carried over July 1, 1971		
Fees earned in June 1971 but not deposited until July 1971	$186,193.18	
Unfinished business balance	83,739.48	
Deposit accounts balance	239.905.62	
Card service	3,208.79	
	$513,047.07	
		$2,623,483.24

	Registrations	Fees earned
Published domestic works at $6	211,638	$1,269,828.00
Published foreign works at $6	4,511	27,066.00
Unpublished works at $6	80,394	482,364.00
Renewals at $4	20,835	83,340.00
Total registrations for fee	317,378	$1,862,598.00
Registrations made under provisions of law permitting registration without payment of fee for certain works of foreign origin	12,312	
Registrations made under Standard Reference Data Act, P.L. 90-396 (15 U.S.C. §290), for certain publications of U.S. Government agencies for which fee has been waived	6	
Total registrations	329,696	
Fees for recording assignments		40,797.00
Fees for indexing transfers of proprietorship		21,816.00
Fees for recording notices of intention to use		4,236.50
Fees for recording notices of use		22,399.50
Fees for certified documents		6,776.00
Fees for searches made		77,525.00
Card Service		9,309.52
Total fees exclusive of registrations		182,859.52
Total fees earned		$2,045,457.52

Publications of the Copyright Office

The publications listed below may be obtained free of charge from the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

General Information on Copyright. Circular 1. 11 pages. 1971.

The Copyright Office. Circular 1A. 2 pages. 1971.

Regulations of the Copyright Office. (Code of Federal Regulations, Title 37, chapter II.) Circular 96. 17 pages. 1969.

Circulars on specific copyright subjects are available. These include:

Assignments and Related Documents
Audiovisual Material
Authors' Publishing and Recording Arrangements
Books and Pamphlets
Cartoons and Comic Strips
Choreographic Works
Computer Programs
Contributions to Periodicals
Copyright Notice
Dramatico-Musical Works
Fair Use
Games
How to Investigate the Copyright Status of a Work
International Copyright Relations
Letters, Diaries, and Similar Personal Manuscripts
Looseleaf Publications
Motion Pictures
Musical Compositions
New Versions and Reprints
Periodicals
Pictorial, Graphic, and Sculptural Works
Poems and Song Lyrics
Prints and Labels
Radio and Television Programs
Renewal of Copyright

Annual Report of the Register of Copyrights. Copies are available for the fiscal years beginning with 1962. Certain earlier Reports are also available.

Bibliography on Design Protection. Compiled and edited by Barbara A. Ringer. 70 pages. 1955.

Bibliography on Design Protection. Supplement 1959. 160 pages. 1959.

Copyright Bibliography. By Henriette Mertz. 213 pages. 1950.

Copyright-Related Laws and Regulations. A listing of some provisions in the United States Code, Statutes at Large, and the Code of Federal Regulations dealing with or related to copyright (exclusive of 17 USC, the copyright law, and 37 CFR II, the regulations of the Copyright Office). Compiled by Marjorie G. McCannon. Circular 86. 31 pages. 1968.

Hearings on the Revision Bill. Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate. In 7 parts, including a combined subject and name index.

89th Cong., 1st sess., pursuant to S. Res. 48 on S. 1006. August 18, 19, and 20, 1965. 242 pages. 1967.

89th Cong., 2d sess., pursuant to S. Res. 201 on S. 1006. August 2, 3, 4, and 25, 1966. CATV hearings. 252 pages. 1966.

90th Cong., 1st sess., pursuant to S. Res. 37 on S. 597. Parts 1–4. 1383 pages. 1967.

Index of Hearings. Combined subject and name index. 151 pages. 1968.

For information about obtaining copies of the committee prints and hearings listed below, which are not available from the Government Printing Office, write to the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

Copyright Law Revision Studies. Studies prepared for the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate.

Studies 1–4. 142 pages. 1960. 40 cents.

1. The History of U.S.A. Copyright Law Revision from 1901 to 1954

2. Size of the Copyright Industries
3. The Meaning of "Writings" in the Copyright Clause of the Constitution
4. The Moral Right of the Author

Studies 5–6. 125 pages. 1960. 35 cents.
5. The Compulsory License Provisions of the U.S. Copyright Law
6. The Economic Aspects of the Compulsory License

Studies 7–10. 125 pages. 1960. 35 cents.
7. Notice of Copyright
8. Commercial Use of the Copyright Notice
9. Use of the Copyright Notice by Libraries
10. False Use of the Copyright Notice

Studies 11–13. 155 pages. 1960. 45 cents
11. Divisibility of Copyrights
12. Joint Ownership of Copyrights
13. Works Made for Hire and on Commission

Studies 14–16. 135 pages. 1960. 35 cents.
14. Fair Use of Copyrighted Works
15. Photoduplication of Copyrighted Material by Libraries
16. Limitations on Performing Rights

Studies 17–19. 135 pages. 1960. 40 cents.
17. The Registration of Copyright
18. Authority of the Register of Copyrights to Reject Applications for Registration
19. The Recordation of Copyright Assignments and Licenses

Studies 20–21. 81 pages. 1960. 25 cents.
20. Deposit of Copyrighted Works
21. The Catalog of Copyright Entries

Studies 22–25. 169 pages. 1960. 45 cents.
22. The Damage Provisions of the Copyright Law
23. The Operation of the Damage Provisions of the Copyright Law: An Exploratory Study
24. Remedies Other Than Damages for Copyright Infringement
25. Liability of Innocent Infringers of Copyright

Studies 26–28. 116 pages. 1961. 35 cents.
26. The Unauthorized Duplication of Sound Recordings
27. Copyright in Architectural Works
28. Copyright in Choreographic Works

Studies 29–31. 237 pages. 1961. 60 cents.
29. Protection of Unpublished Works
30. Duration of Copyright
31. Renewal of Copyright

Studies 32–34. 57 pages. 1961. 25 cents.
32. Protection of Works of Foreign Origin
33. Copyright in Government Publications
34. Copyright in Territories and Possessions of the United States

Subject Index to Studies 1–34. 38 pages. 1961. 15 cents.

Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law. 87th Cong., 1st sess. House Committee Print. 160 pages. July 1961. 45 cents.

Copyright Law Revision, Part 2. Discussion and Comments on Reports of the Register of Copyrights on the General Revision of the U.S. Copyright Law. 88th Cong., 1st sess. House Committee Print. 419 pages. February 1963. $1.25.

Copyright Law Revision, Part 3. Preliminary Draft for Revised U.S. Copyright Law and Discussions and Comments on the Draft. House Committee Print. 457 pages. September 1964. $1.25.

Copyright Law Revision, Part 4. Further Discussions and Comments on Preliminary Draft for Revised U.S. Copyright Law. 88th Cong., 2d sess. House Committee Print. 477 pages. December 1964. $1.25.

Copyright Law Revision, Part 5. 1964 Revision Bill with Discussions and Comments. 89th Cong., 1st sess. House Committee Print. 350 pages. September 1965. $1.

Copyright Law Revision, Part 6. Supplementary Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law: 1965 Revision Bill. 89th Cong., 1st sess. House Committee Print. 338 pages. May 1965. $1.

Hearings on the 1965 Revision Bill. Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives. 89th Cong., 1st sess., on H.R. 4347, H.R. 5680, H.R. 6831, H.R. 6835. May-September 1965. In 3 parts, including an appendix of letters and other statements, as well as a combined subject and name index. 2056 pages. 1966. Part 1, $2; Part 2, $2.25; Part 3, $2.

Copyright Law Revision. Report of the House Committee on the Judiciary. 89th Cong., 2d sess., H. Rept. 2237. 279 pages. 1966. 65 cents.

Copyright Law Revision. Report of the House Committee on the Judiciary. 90th Cong., 1st sess., H. Rept. 83. 254 pages. 1967. 60 cents.

To order the publications listed below address orders and make remittances payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Compendium of Copyright Office Practices. A general guide to Copyright Office practices, which are subject to constant review and modification. Looseleaf. 1971. $6 domestic and $7.50 foreign.

Copyright Law of the United States of America. (Title 17, United States Code), Bulletin 14. This is a pamphlet edition of the copyright law including the Regulations of the Copyright Office and the text of the Universal Copyright Convention. 83 pages. 1969. 45 cents.

Copyright Enactments. Laws Passed in the United States since 1783 Relating to Copyright. Bulletin 3, revised. Looseleaf in binder. 150 pages. 1963. $2.

Catalog of Copyright Entries. Each part of the Catalog is published in semiannual numbers containing the claims of copyright registered during the periods January–June and July–December. The prices given below are for the year. Semiannual numbers are available at one-half the annual price. Beginning with vol. 20, no. 1, 1966, Third Series of the Catalog, the annual subscription price for all parts of the complete yearly Catalog is $50. For the preceding 19 volumes of the Third Series, the annual subscription price for all parts is $20. The prices given in brackets are for the issues preceding vol. 20. Write to the Superintendent of Documents for information about additional charges for mailing the Catalogs to foreign countries.

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Parts 7–11A—Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations. $5[$2]
Part 11B—Commercial Prints and Labels. $5[$2]
Parts 12–13—Motion Pictures and Filmstrips. $5[$1]
Annual Subscription Price, all parts. $50[$20]

Catalog of Copyright Entries, Cumulative Series.

Motion Pictures 1894–1912. Works identified from the records of the United States Copyright Office by Howard Lamarr Walls. 92 pages. 1953. $2.

Motion Pictures 1912–1939. Works registered in the Copyright Office in Classes L and M. 1256 pages. 1951. $18.

Motion Pictures 1940–1949. Works registered in the Copyright Office in Classes L and M. 599 pages. 1953. $10.

Motion Pictures 1950–1959. Works registered in the Copyright Office in Classes L and M. 494 pages. 1960. $10.

Motion Pictures 1960–1969. Works registered in the Copyright Office in Classes L and M. 744 pages. 1971. $8.

These five volumes list a total of over 135,000 motion pictures registered since the beginning of the motion picture industry.

Decisions of the United States Courts Involving Copyright. The series contains substantially all copyright cases, as well as many involving related subjects, which have been decided by the Federal and State courts.

1909–14 (Bulletin 17) Out of print
1914–17 (Bulletin 18) $2.50
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1938–39 (Bulletin 22) $2.00
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1969–70 (Bulletin 37) In process.

Cumulative Index, 1909-1954 (Bulletins 17–29) $1.75.
Complete set, including Index $55.
Prices are subject to change.

Orders for and inquiries concerning the work listed below should be addressed and remittances made payable to the Chief, Photoduplication Service, Library of Congress, Washington, D.C. 20540.

A Compilation of the Regulations Concerning Copyright, 1874-1956. The regulations affecting copyright since the duties of registering copyright claims were first transferred to the Library of Congress. Positive microfilm, $6.50; photostat, $60.

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